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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/998,333	12/03/2001	Kathleen D. Danenberg	11220/146	5598

23838 7590 10/30/2006

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WASHINGTON, DC 20005

EXAMINER

KIM, YOUNG J

ART UNIT	PAPER NUMBER
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1637

DATE MAILED: 10/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER

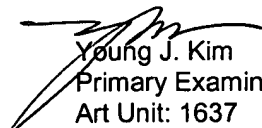
ART UNIT	PAPER
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20061020

DATE MAILED:

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Commissioner for Patents



Young J. Kim
Primary Examiner
Art Unit: 1637

DETAILED ACTION

The reply filed on October 10, 2006 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s):

Applicants have amended all of the pending claims to a patentably distinct invention.

Specifically, claims which had been prosecuted were drawn to a method of determining a chemotherapeutic regimen for treating a metastatic tumor in an individual by determining the expression level of EGFR in a sample.

The Amendment received on October 10, 2006 changes the invention to a method which now determines the expression level of a patentably distinct gene, Thymidine Synthase.

The presently amended invention is patentably distinct from the invention which was previously prosecuted, and since not a single claim remains in the instant application which is drawn to the previously prosecuted invention, the response is deemed non-responsive.

See 37 CFR 1.111. Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

Conclusion

Applicants are advised to file a divisional or continuing application for pursuing the amended claims, as filing an RCE (Request for Continued Examination) does not allow switching of inventions.

Inquiries

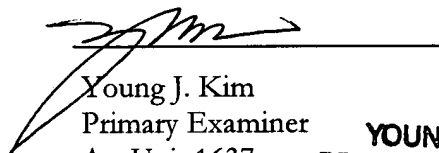
Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Young J. Kim whose telephone number is (571) 272-0785. The Examiner is

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on flex-time schedule and can best be reached from 8:30 a.m. to 4:30 p.m (M-W and F). The Examiner can also be reached via e-mail to Young.Kim@uspto.gov. However, the office cannot guarantee security through the e-mail system nor should official papers be transmitted through this route.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Dr. Gary Benzion, can be reached at (571) 272-0782.

Papers related to this application may be submitted to Art Unit 1637 by facsimile transmission. The faxing of such papers must conform with the notice published in the Official Gazette, 1156 OG 61 (November 16, 1993) and 1157 OG 94 (December 28, 1993) (see 37 CFR 1.6(d)). NOTE: If applicant does submit a paper by FAX, the original copy should be retained by applicant or applicant's representative. NO DUPLICATE COPIES SHOULD BE SUBMITTED, so as to avoid the processing of duplicate papers in the Office. All official documents must be sent to the Official Tech Center Fax number: (571) 273-8300. For Unofficial documents, faxes can be sent directly to the Examiner at (571) 273-0785. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (571) 272-1600.


Young J. Kim
Primary Examiner
Art Unit 1637
10/20/2006
**YOUNG J. KIM
PRIMARY EXAMINER**

YJK